

### **REMARKS/ARGUMENTS**

Applicant has reviewed and considered the rejection of claims 5 and 6 under 35 U.S.C. § 112 and has amended the specification to include the subject matter described in claims 5 and 6, namely, a means for attaching the base pole to the holder.

Applicant has also reviewed and considered the rejection of claims 1-3, 7 and 8 under 35 U.S.C. 102(b) as being anticipated by the Senieur patent and has amended independent claim 1 to highlight the structural difference therebetween; namely, in Applicant's invention, the hollow cylindrically shaped holder has open first and second ends to permit fishing poles of various lengths to be used in Applicant's invention. The Senieur patent specifically teaches a fishing rod holder having the holder portion closed at one end (O). Thus, if one were to use a saltwater fishing rod, which is known for having a greater rod length as compared to a freshwater fishing rod, one may not be able to use the Senieur invention as the rod may not have sufficient pole length and weight within the holder so as to be securely positioned in the holder. Because Applicant's invention is open-ended, rods of various lengths may be used.

Next, Applicant has reviewed and considered the rejection of claims 1-3, 7 and 8 under 35 U.S.C. 102(b) as being anticipated by the Herring patent and concedes that although it is true the Herring patent discloses a holder capable of holding a fishing rod and a base pole, the Herring patent does not disclose a means for attaching the base pole to a predetermined location between the holder ends at a substantially perpendicular angle. Rather, the Herring patent teaches the holder (4) being attached to a straight extension (91) which is attached to a T-shaped mount extension (93) wherein the T-shaped mount extension (93) is attached at a substantially perpendicular angle to a T-shaped stabilizer foot (92) (see Fig. 9). Thus, the Herring patent does not directly attach the holder (1) to the base pole (2) at a substantially perpendicular angle as does Applicant's invention. Thus, the Herring patent utilizes a "7" shape for its fishing rod holder whereas Applicant utilizes a "T" shape. Moreover, the Herring holder (4) is not open on both a first end and a second end as is Applicant's holder and thus has disadvantages also inherent with the Senieur device

discussed herein above.

Next, Applicant has reviewed and considered the rejection of claims 1, 4, 7 and 9-11 under 35 U.S.C. 102(b) as being anticipated by the Girard patent and refers once again to newly amended claim 1 to highlight the structural differences therebetween; in Applicant's invention, the hollow cylindrically shaped holder has open first and second ends to permit fishing poles of various lengths to be used in Applicant's invention and Applicant utilizes a hollow base pole. The Girard patent utilizes a fishing pole holding socket (15) wherein the base of the socket (15) is closed (see Fig. 3). As stated above, Applicant's invention utilizes an open-ended holder so as to accommodate fishing rods of various lengths. In addition, the Girard patent does not disclose a means for attaching the base pole to a predetermined location between the holder ends at a substantially perpendicular angle. Rather, the Girard patent teaches the holder (socket 15) being attached to a socket support bar (16) which is attached to central horizontal mount (17) which is attached to a mount holding socket (18) which is attached to a support post (19) which is attached to a base post (20) (see Fig. 3). Thus, the Girard patent does not directly attach the holder (1) to the base pole (2) at a substantially perpendicular angle as does Applicant's invention. Thus, the Girard patent utilizes a "h" shape for its fishing rod holder whereas Applicant utilizes a "T" shape.

In addition, the Girard patent utilizes a solid base post (20) whereas Applicant utilizes a hollow base pole (2). The importance of solid vs. hollow base poles is that a hollow base pole securely positions Applicant's invention into the ground as the ground surrounds and infuses the base pole, which is especially important if the ground is sand. The Girard invention, on the other hand, utilizes a solid base pole wherein the ground surrounds the base pole only, thereby providing minimal ground support, especially in sand.

Moreover, Applicant has amended independent method claim 9 so as to highlight the structural distinction between his invention and its method of use and the Girard patent. Namely, Applicant utilizes a hollow base pole (2) whereas Girard utilizes a solid base pole (23). The importance of Applicant utilizing a hollow base pole (2) is that a hollow base pole (2) allows for more secure positioning of the base pole (2) into the ground, especially if the

ground is sand, because portions of the ground would both surround the base pole and infuse the base pole. If using the Girard invention is placed in sand, the invention would not remain securely upright as only the portions of the ground which surround the base pole would hold the invention in place.

Next, Applicant has reviewed and considered the rejection of claims 1 and 4 under 35 U.S.C. § 102(b) as being anticipated by the Cauvilla Brazilian patent and refers to newly amended claim 1 to highlight the structural difference therebetween; namely, Applicant's base pole being hollow. As described in the specification and above, the hollowness of the base pole is of importance as it permits better anchorage of Applicant's invention.

With regard to the rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by the Handy patent, Applicant refers to newly amended claim 1 to highlight the structural difference therebetween; namely, the base pole being pointed. The point of the base pole is of importance as it permits better positioning of the invention into the ground. The Handy patent, on the other hand, merely utilizes a stand assembly (26) to keep the invention upright. Thus, the Handy patent is not stable and may fall over in the instance of strong winds or tip over if used on an uneven surface.

Next, Applicant has reviewed the rejection of claims 2, 3, 5, 6 and 8-11 under 35 U.S.C. § 103(a) as being unpatentable over Senieur in view of Terrill and refers to newly amended claim 1, upon which claims 2, 3, 5, 6 and 8 are dependent thereupon, to highlight the main structural difference between the prior art and Applicant's invention; namely, in Applicant's invention, a hollow cylindrically shaped holder having an open first end and an open second end is used and the base pole is hollow. The open ends are of importance as they permit rods of various lengths to be used in conjunction with the invention and the hollow base pole is of importance as it permits for greater anchoring ability, both discussed above. Thus, if one were to replace the means for attaching the base pole to the holder at a perpendicular angle inventions as described in Terrill with the Senieur invention, one would still not achieve Applicant's invention as Applicant's invention utilizes an open-ended holder attached to a hollow base pole. Thus, Applicant submits any reasonable combination of

Senieur and Terrill would not render obvious Applicant's invention.

With respect to the claim 9 rejection, once again, Applicant refers to the newly amended independent method claim 9 to highlight the structural and method of use distinctions from that of Senieur in combination with Terrill; namely, having an open-ended holder and a hollow base pole. The importance of these structural features is outlined above.

Next, Applicant has reviewed and considered the rejection of claims 2, 3, 5, 6 and 8 under 35 U.S.C. 103(a) as being unpatentable over the Herring patent and admits that although it might be obvious to one having ordinary skill in the art at the time the invention was made to make the holder, base pole and attachment piece out of PVC pipe and to use glue or tape to hold the parts together, it would not be obvious to do so with a holder having the structural differences set forth in newly amended independent claim 1, the claim upon which claims 2, 3, 5, 6 and 8 are dependent thereupon, as discussed hereinabove in relation to the 35 U.S.C. 102(b) rejection under the Herring patent.

Next, Applicant has reviewed and considered the rejection of claims 2, 3, 5, 6 and 8-10 under 35 U.S.C. 103(a) as being unpatentable over Girard and admits that although it may be obvious to one having ordinary skill in the art at the time the invention was made to make the holder, base pole and attachment piece out of PVC pipe and to use glue or tape to hold the parts together, it would not be obvious to do so in combination with a holder having the structural distinctions of Applicant's newly amended independent claim 1, the claim upon which claims 2, 3, 5, 6 and 8 are dependent thereupon, based on the Girard patent for the reasons discussed above.

Furthermore, with regards to claims 9 and 10, Applicant has amended independent method claim 9 to highlight the key structural differences between Applicant's invention and method of use and that of the Girard patent; namely, the hollow base pole. The importance of having a hollow base pole as opposed to a solid base pole, as taught in Girard, is discussed above.

Finally, Applicant has reviewed and considered the rejection of claims 2, 3, 5, 6 and

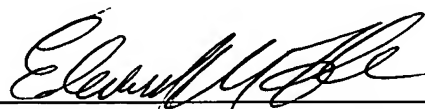
8-10 under 35 U.S.C. 103(a) as being unpatentable over the Cauvilla Brazillian patent and admits that although it may be obvious to one having ordinary skill in the art at the time the invention was made to make the holder, base pole and attachment piece out of PVC pipe and to use glue or tape to hold the parts together, Applicant has amended independent claim 1, the claim upon which claims 2, 3, 5, 6 and 8 are dependent thereupon, it would not be obvious to do so in combination with a holder having the structural distinctions of Applicant's newly amended independent claim 1, the claim upon which claims 2, 3, 5, 6 and 8 are dependent thereupon, based on the Cauvilla patent for the reasons discussed above.

Furthermore, with regards to claims 9 and 10, Applicant has amended independent method claim 9 to highlight the key structural differences between Applicant's invention and method of use and that of the Cauvilla patent; namely, the hollow base pole. The importance of having a hollow base pole as opposed to a solid base pole, as taught in Cauvilla, is discussed above.

In view of the above amendments and remarks, Applicant believes the examiner will now find this patent application in a position for allowance and its expeditious passage to same is requested.

Should the examiner disagree or have any questions, comments or suggestions that will render this application allowable, a call to the undersigned attorney of record is invited.

Respectfully submitted,  
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CERTIFICATE OF MAILING by "EXPRESS MAIL" UNDER 37 CFR 1.10

I HEREBY CERTIFY that the above Petition for Extension of Time is being deposited with the United States Postal Service by "Express Mail Post Office to Addressee" service, U.S. Express Mail No. EV 589509524 US, on the 3rd day of November, 2004, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
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Legal Assistant